

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1223 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MAGANLAL VIDYARAM MEHTA SINCE DECEASED THRO' HIS
HEIRS AND LEGAL REPRESENTATIVES

Versus

RAMESHCHHANDRA BANSILAL SHAH

Appearance:

MR NN PANDYA for Petitioner

MR NK MAJMUDAR for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 05/02/97

ORAL JUDGEMENT

This Civil Revision Application is filed by the tenant under sec.29(2) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.

The learned counsel for the petitioners contended that a suit had been filed by the respondent on the ground of default in payment of rent. That suit has been dismissed by the Trial Court only on the ground that the tenancy was not terminated by giving a valid notice. However, the issue regarding the default in payment of rent was found against the petitioner. The petitioner

filed an appeal against the said judgment and the appellate court has decided the matter on the issue, whether the notice terminating the tenancy was legal and valid or not, against the petitioner. The counsel for the petitioners submitted that there is a concurrent finding of fact on the issue of default in payment of rent, and he is unable to successfully challenge the same. However, he prays that the premises in dispute is a commercial premises, and as such, this court may grant some reasonable time to the petitioners to vacate the premises.

The counsel for the respondent-landlord has fairly submitted that he has no objection in case court grants some reasonable time to the petitioners. However, an undertaking may be ordered to be furnished by the petitioners to ensure that after the expiry of the period granted by this court for vacation of the premises, the vacant possession of the premises will be delivered to the landlord.

Taking into consideration the totality of the facts of this case, though the Civil Revision Application has no merits and the same is dismissed, but however, the petitioners are granted two years time to vacate the premises in dispute.

The two years time is granted on the following terms and conditions.

(i) The petitioners shall file an undertaking before this court within a period of three months from today that they shall hand over the vacant possession of the suit premises to the landlord-respondent on or before 4th February, 1999 and further they shall pay regularly monthly amount for the use and occupation of the premises till they vacate the same, at the rate at which they are paying till date or last paid.

(ii) They will not sublet, assign or otherwise part with the possession of the premises or any part thereof. Further they will not in any manner cause any damage to the suit premises.

(iii) In case, the petitioners make default in payment of the monthly amount for use and occupation of the premises in question for two consecutive months, then the indulgence granted by this court shall stand automatically vacated and decree shall become executable forthwith.

(iv) In case the undertaking is not furnished within a period of three months from today then the indulgence granted by this court shall stand vacated and the decree shall become executable forthwith.

(v) It is further ordered that if any of the conditions of the undertaking is breach by the petitioners then the indulgence granted by this court shall stand vacated and the decree shall become executable forthwith.

zgs/-